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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,797	02/07/2002	Jeffrey Rodman	199-0093US	3595
29855 7590 06/24/2009 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 6th Floor HOUSTON, TX 77070				
EXAMINER PYZOCHA, MICHAEL J				
ART UNIT		PAPER NUMBER		
2437				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/072,797

Applicant(s)

RODMAN ET AL.

Examiner

MICHAEL PYZOSHA

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21, 23, 25-32 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21, 23, 25-32 and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 21, 23, 25-32 and 35-40 are pending.
2. Amendment filed 07/21/2008 has been received and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21, 23, 25, 28, 30-32 and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorndahl (US 6396612) in view of Schneier (Applied Cryptography) and further in view of Atsmon (WO 0029920).

As per claims 21, 30, 31, 37 and 40, Bjorndahl discloses a method and system for data transfer in a wireless networked communication system, the method comprising the acts of: wirelessly transmitting a an encryption key from a first device to a second device of the communication system remote from the first device (see column 5 lines 54-61), wherein the first device and second device are confined within a room and wherein the encryption key signal does not penetrate walls of the room (see column 5 lines 54-61 and column 4 lines 21-25 where it is clear that IR signals do not penetrate walls); using the encryption key to encrypt and decrypt conference data transmissions between the first and second devices, wherein the conference data transmissions are

capable of penetrating the walls of the room (see column 5 line 53 through column 6 line 14).

Bjorndahl fails to disclose the key generation and exchanging steps.

However, Schneier teaches generating a first encryption key within a first device of a communication system; encoding the encryption key to form an encoded encryption key; transmitting the encoded encryption key to a second device (see page 33 step (2)); decoding the encoded encryption key at the second device to extract the encryption key (see page 33 step (3)); and using the encryption key to encrypt and decrypt data for subsequent transmissions between the first and second devices (see page 33 step (4)).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the key generation and exchanging to exchange the key of the Bjorndahl system.

Motivation to do so would have been to allow for secure communications (see Schneier page 33).

The modified Bjorndahl and Schneier system fails to disclose the use of a speaker and a microphone is used to acoustically transmit the encryption key.

However, Atsmon teaches the use of speakers and microphones to transmit data between devices (see pages 3-4).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to acoustically transmit the encryption key of the modified Bjorndahl and Schneier system using microphones and speakers.

Motivation to do so would have been to easily control the range of the transmission (see Atsmon page 3).

As per claims 23, 32 and 35, the modified Bjorndahl, Schneier and Atsmon system discloses the use of acoustic encoders and decoders, specifically the use of DTMF tones (see Atsmon page 21).

As per claims 25 and 36, the modified Bjorndahl, Schneier and Atsmon system discloses the use of memory to store the encryption key (see Bjorndahl column 5 line 53 though column 6 line 14).

As per claims 28, 38 and 39 the modified Bjorndahl, Schneier and Atsmon system discloses the use of RF signals (see Bjorndahl column 5 line 53 though column 6 line 14).

5. Claims 26, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bjorndahl, Schneier and Atsmon system as applied to claim 21 above, and further in view of Doberstein et al. (US 5809148).

As per claims 26, 27, and 29, the modified Bjorndahl, Schneier and Atsmon system fails to explicitly disclose determining when a request for retransmission, because of an error occurred in connection with the reception or decoding of the encryption key, is needed based on performing error detection.

However, Doberstein et al. teaches determining when a request for retransmission, because of an error occurred in connection with the reception of a message, is needed based on performing error detection (see column 3 lines 3-19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to determining when a request for retransmission, because of an error occurred in connection with the reception of the encryption key in the modified Bjorndahl, Schneier and Atsmon system, is needed based on performing error detection.

Motivation to do so would have been because doing so allows the system to make a request for retransmission of data so that the encryption key can still be built even if data is initially not received properly (see Doberstein et al. column 3 lines 3-19).

Response to Arguments

6. Applicant's arguments with respect to claims 21, 23, 25-32 and 35-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Atsmon (US 7383297) is the corresponding US case to the document cited above.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOSKA whose telephone number is (571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2437

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Pyzocha/
Examiner, Art Unit 2137